

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:	PCT	
KURIG, Thomas BECKER-KURIG-STRASUS Bavariastrasse 7 D-80336 München ALLEMAGNE	WRITTEN OPINION (PCT Rule 66)	
BECKER KURIG STRAUS BAVARIASTRASSE 7 · 80336 MÜNCHEN		
10. Okt. 2003		
WV: / LF:		

Date of mailing
(day/month/year)

10.10.2003

IR 25.11.03 not

Applicant's or agent's file reference 50865 WO	REPLY DUE within 1 month(s) and 15 days from the above date of mailing	
International application No. PCT/EP02/00047	International filing date (day/month/year) 04.01.2002	Priority date (day/month/year) 04.01.2002
International Patent Classification (IPC) or both national classification and IPC H04B7/26		
Applicant NOKIA CORPORATION et al.		

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 04.05.2004

Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Meiser, J Formalities officer (incl. extension of time limits) Poquet Oliver, R Telephone No. +49 89 2399-2911
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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-19 as originally filed

Claims, Numbers

1-18 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

5. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this opinion.)

6. Additional observations, if necessary:

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	none
Inventive step (IS)	Claims	none
Industrial applicability (IA)	Claims	none

2. Citations and explanations**see separate sheet**

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following document:

D1: ANONYMOUS: '3GPP TR 25.858 V1.0.0 (2001-12) 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; High Speed Downlink Packet Access: Physical Layer Aspects (Release 5)' INTERNET ARTICLE, [Online] Retrieved from the Internet:
<URL:<http://www.3gpp.org>> [retrieved on 2002-03-07]

2. a. Although **claim 1** is drafted in the two-part form the feature "said High-Speed Indicator (HI) designating a specific mobile terminal device accessible in a downlink channel" is incorrectly placed in the characterising portion, as it is disclosed in document D1 (page 15, first paragraph) in combination with the features placed in the preamble (Rule 6.3(b) PCT).

b. **Claim 13 and 14** should only refer to claims 3 to 6, because a reference on any one of the preceding claims leads to lack of clarity of the claims when used to interpret them.

c. The terms "... for carrying out the steps of ...", "... for carrying out the method ..." and "... adapted to perform a method ..." used in **claims 15 -18** are vague and unclear and leave the reader in doubt as to the meaning of the technical features to which they refer, thereby rendering the definition of the subject-matter of said claims unclear (Article 6 PCT).

In order to overcome this objection, the claims should read as follows:

- **claim 15** (page 22, line 4): "... comprising program code means for carrying out each of the steps of any one ...";

- **claim 16** (page 22, line 9): "... for carrying out each of the steps of the method for High-Speed ...";

- **claim 17** (page 22, line 16) and **claim 18** (page 22, line 21):

"... comprising means adapted to perform each of the steps of the method for High-Speed ...".

d. According to the requirements of Rule 6.2(b) the technical features mentioned in the **claims** shall preferably be followed by the reference signs relating to such features in the drawings. This requirement is not met in view of the reference signs "HSDPA", "HI", "TDD", "HARQ" and "node B" in the claims.

e. In the **claims 3, 6-8, 10, 11, and 13-16** the term "anyone" should be replaced by the term "any one":

f. The vague and imprecise statement "Consequently, various options of implementing the invention as determined by the claims, including equivalent implementations, also belong to the scope of the invention" in the description on page 19, line 15, implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them (see also the PCT Guidelines, III-4.3a). This statement should therefore be amended to remove this inconsistency.

3. It seems that the following passages should read as follows:

- description (page 13, line 28): "... "0100" "0101" and "0110" may be assigned to the corresponding ...";

- description (page 14, line 7): "... "0011" "0100" "0101" and "0110" may be assigned to the corresponding ...".